

1 PRESTON DuFAUCHARD
 2 California Corporations Commissioner
 3 ALAN S. WEINGER
 4 Deputy Commissioner
 5 JUDY L. HARTLEY (CA BAR NO. 110628)
 6 Senior Corporations Counsel
 7 Department of Corporations
 8 320 West 4th Street, Ste. 750
 9 Los Angeles, California 90013-2344
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8 BEFORE THE DEPARTMENT OF CORPORATIONS
 9 OF THE STATE OF CALIFORNIA

11 In the Matter of THE CALIFORNIA) File No.: 963-2352
12 CORPORATIONS COMMISSIONER,)
13 Complainant,) NOTICE AND SUMMARY OF FINDINGS
14 vs.) PURSUANT TO CALIFORNIA FINANCIAL
15 A.C.T. ESCROW, INC.,) CODE SECTION 17621
16 Respondent.)
17)
18)

19 TO: A.C.T. ESCROW, INC.
 20 42231 6th Street W., Suite 205
 21 Lancaster, California 93534
 22 2155 East Garvey Avenue North, Suite B-10
 23 West Covina, California 91791
 24 EASTWEST BANK
 25 1900 Avenue of the Stars
 26 Los Angeles, California 90067

27 Please take notice that the California Corporations Commissioner finds:

- 28 1. On or about November 16, 2011, the Commissioner received information from the president of ACT that its West Covina escrow manager had admitted embezzling \$92,000.00 in trust funds in violation of Financial Code section 17414(a)(1). Based upon such information, on or about

1 November 17, 2011, the Commissioner, by and through his staff, commenced a special examination
2 of the books and records of ACT.

3 3. The special examination, which has yet to be completed, revealed that as of
4 November 16, 2011, the main office of ACT, located at 42231 6th Street W, Suite 205, Lancaster,
5 California 93534, had a trust account shortage of at least \$269,504.46.

6 4. The special examination further revealed that the books and records had not been
7 maintained since in or about February 2011 at the West Covina branch in violation of Financial
8 Code section 17404 and California Code of Regulations, title 10, section 1732.2. As a result of
9 ACT's failure to maintain books and records, the Commissioner has been unable to determine the
10 exact extent of the alleged trust shortage at the West Covina branch, but it appears to be around
11 \$100,000.00.

12 5. On or about November 16, 2011, the Commissioner made demand upon ACT to
13 immediately open a new trust account at both offices in which all further escrow funds received by
14 ACT would be deposited so that new escrow trust funds could remain separate from the trust funds
15 affected by the shortage. On or about November 18, 2011, ACT opened a new trust account for the
16 West Covina branch. However, as of November 22, 2011, ACT had yet to open the new trust
17 account for Lancaster as previously demanded, so a further demand was made upon ACT. The
18 Department has been informed that the new trust account for the main office was finally opened on
19 or about November 22, 2011. However, the Department has yet to receive written evidence that the
20 new trust accounts have been opened as demanded.

21 6. On or about November 21, 2011, the Commissioner made written demand upon ACT
22 to cure the \$269,504.46 trust account shortage at the main office no later than November 22, 2011.
23 ACT has failed to cure the trust account shortage at the main office except that ACT has stated that it
24 deposited \$25,000.00 into the main office trust account from funds it obtained from its former
25 branch manager along with a further \$5,000.00 it obtained from the person the former manager was
26 diverting the embezzled escrow funds through. The evidence of such deposits submitted by ACT to
27 the Department of Corporations ("Department") to date indicates that \$25,000.00 in funds alleged to
28 have been obtained from the former manager was deposited into the general account of the West

1 Covina branch and then immediately transferred to the main office trust account.

2 6. Based on the above, ACT currently has trust account shortages of at least
3 \$239,504.46, but possibly as much as \$369,504.46. The Commissioner has made written demand
4 upon ACT to cure at least the shortage in the main office trust account no later than November 22,
5 2011. ACT has failed to cure the shortage and continues in its failure to cure the shortage.

6 7. California Financial Code section 17621 provides in pertinent part:

7 Whenever it appears to the commissioner that any escrow agent subject
8 to this division:

9 ...

10 (b) Is conducting escrow business in an unsafe and unauthorized manner;

11 (c) Has violated its charter or any law of the State of California;

12 ...

13 the commissioner shall dispatch a written notice and summary of findings,
14 as referred to in Section 17415, to the principal officer of the escrow agent
15 involved or to its manager of record; and such escrow agent shall be afforded
16 a reasonable opportunity to comply or otherwise effect such remedy as the
17 commissioner may deem acceptable. However, should the escrow agent so
18 notified fail to comply within five days of receipt of the notice, or as soon as
19 it appears to the commissioner that no compliance is possible, or in the event
20 prompt delivery of the prescribed written notice is impossible, the commissioner
21 may forthwith take possession of the property and business of such escrow agent
22 and retain possession until such escrow agent resumes business or its affairs be
23 finally liquidated as provided in this chapter. The escrow agent, with the consent
24 of the commissioner, may resume business upon such conditions as the
25 commissioner may prescribe.

26 8. Based upon the foregoing, the Commissioner finds that A.C.T. Escrow, Inc. has
27 violated Financial Code sections 17404 and 17414(a)(1) and California Code of Regulations, title
28 10, sections 1732.2, 1738, 1738.1 and 1738.2, and is conducting escrow business in such an unsafe
and unauthorized manner, that no compliance is possible.

Dated: December 6, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel